

# Rules

## Records Retention Scheduling

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# 3 Rules

## Records Retention Scheduling

STATE AGENCY BULLETIN NUMBER THREE

**Administrative Rules of Texas State Library and Archives Commission  
Texas Administrative Code, Title 13, Chapter 6**

**Section 6.1. Definitions**

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in these sections shall have the meanings defined in Government Code, §441.180.

- (1) Agency head—The appointed or elected official who serves by the state constitution, state statute, or action of the governing body of a state agency as the chief executive and administrative officer of a state agency.
- (2) Archival state record—Any state record of enduring value that will be preserved on a continuing basis by the commission or another state agency until the state archivist indicates that based on a reappraisal of the record it no longer merits further retention.
- (3) Certification—The process, inclusive of recertification, by which a records retention schedule or amendments to a schedule are approved for use by a state agency during a certification period.
- (4) Certification period—The period of time during which a records retention schedule, including certified amendments to the schedule, may be used by a state agency in the final disposition of state records without additional authorization from the director and librarian.
- (5) Commission—The Texas State Library and Archives Commission.
- (6) Component—A division, department, program, or other subdivision of a state agency.
- (7) Confidential state record—Any state record to which public access is denied under Government Code, Chapter 552, or other state or federal law.
- (8) Decertification—The process by which an approved records retention schedule of a state agency is disapproved because of failure of the state agency to adhere to the requirements of Government Code, Chapter 441, Subchapter L, and these rules adopted under that subchapter.
- (9) Director and librarian—The chief executive and administrative officer of the Texas State Library and Archives Commission.
- (10) Final disposition—Final processing of state records by either destruction or archival preservation by the commission, by a state agency, or by an alternate archival institution as permitted by Government Code, Chapter 441, Subchapter L.

- (11) Records management officer—The agency head or the person appointed by the agency head to act as the state agency’s representative in all issues of records management policy, responsibility, and statutory compliance pursuant to Government Code, §441.184.
- (12) Records retention schedule—A document prepared in accordance with §6.2 of this title (relating to Submission of Records Retention Schedules for Certification).
- (13) Records series—A group of identical or related records that are normally used and/or filed together, and that permit evaluation as a group for retention scheduling purposes.
- (14) Retention period—The period of time during which state records must be maintained before final disposition.
- (15) State agency—Any department, commission, board, office, or other agency in the executive, legislative, or judicial branch of state government created by the constitution or a statute of this state, including an eleemosynary institution; any university system and its components; any institution of higher education as defined by §61.003, Education Code, except a public junior college, not governed by a university system board; the Texas Municipal Retirement System and the Texas County and District Retirement System; and any public nonprofit corporation created by the legislature whose responsibilities and authority are not limited to a geographical area less than that of the state.
- (16) State archivist—The person designated by the director and librarian to administer the state archives program under Government Code, §441.181.
- (17) State record—Any written, photographic, machine-readable, or other recorded information created or received by or on behalf of a state agency or an elected state official that documents activities in the conduct of state business or use of public resources. The term does not include library or museum material made or acquired and preserved solely for reference or exhibition purposes; an extra copy of recorded information preserved only for reference; a stock of publications or blank forms; or any records, correspondence, notes, memoranda, or other documents, other than a final written agreement described by §2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.
- (18) State records administrator—The person designated by the director and librarian to administer the state records management program under Government Code, §441.182.
- (19) Texas State Records Retention Schedule— Figure 13 TAC §6.10(a) of this title (relating to Texas State Records Retention Schedule).
- (20) Texas State University Records Retention Schedule— Texas State University Records Retention Schedule-Figure 2 of §6.10 of this title (relating to Texas State University Records Retention Schedule).
- (21) Vital state record—Any state record necessary to the resumption or continuation of state agency operations in an emergency or disaster; the re-creation of the legal and financial status of the agency; or the protection and fulfillment of obligations to the people of the state.

**Source Note:** The provisions of this § 6.1 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective November 28, 1999, 24 TexReg 10320

## **Section 6.2. Submission of Records Retention Schedules for Certification**

- (a) A state agency, if it does not have a certified schedule, must submit a records retention schedule to the state records administrator for initial certification within one year of the effective date of this section or within one year of the effective date of establishment of a new state agency, whichever later.
- (b) For the purposes of this section, a state agency is considered a new state agency or component if through legislative action subsequent to the adoption of this section, it:
  - (1) is created to carry out a new function or activity;
  - (2) is the product of a merger between two or more state agencies or components;
  - (3) is a component or components separated from a state agency or agencies and designated as an independent state agency; or
  - (4) becomes a state agency by amendment to the definition of a state agency in Government Code, §441.180.
- (c) At the discretion of the state records administrator and on petition from the records management officer that it will be impossible for the state agency to comply fully with the requirements of subsection (a) of this section, the state records administrator may extend the deadline for the filing of a records retention schedule for a period on which the state records administrator and the records management officer agree. One or more additional extensions may be granted, but in no case may the first extension and any additional extensions be for a combined period of more than two years from the effective date of this section or of the establishment of a new agency.
- (d) At the discretion of the state records administrator and on petition from the records management officer, the state records administrator may permit the state agency to submit records retention schedules on a component by component basis for certification in lieu of a single submission. The petition must state the reason why the state agency believes this alternative method of submission is in the best interests of its records management program and must provide an estimated timetable for the submission of schedules for the other components of the state agency. Schedules submitted and certified under this alternative method may be combined by the state records administrator for the purposes of recertification under §6.3 of this title (relating to Submission of Records Retention Schedules for Recertification), with submission for recertification of the combined schedule due on the applicable anniversary date of the first schedule submitted and certified.
- (e) For the purposes of this section, a new state agency is considered established on the effective date the first agency head assumes the position of the elected or appointed chief executive and administrative officer of the state agency.

**Source Note:** The provisions of this § 6.2 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective June 12, 1995, 20 TexReg 3983; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective June 1, 2005, 30 TexReg 1766

### **Section 6.3. Submission of Records Retention Schedules for Recertification**

(a) After initial certification, a records retention schedule must be submitted to the state records administrator for recertification one year from the date of certification or recertification for the first two recertification periods.

(b) After the second recertification, a records retention schedule must be submitted for recertification every five years from the date of the last recertification, except for the following situations.

(1) If a state agency with a certified schedule absorbs another state agency, the records retention schedule must be submitted for recertification within one year of the effective date of the reorganization, and then will revert, when the schedule is recertified, to annual or quinquennial certification depending on the certification status of the absorbing agency under this section at the time of absorption.

(2) A state agency may choose to submit a complete retention schedule for recertification at any time during a certification period.

(c) If a state agency with a certified schedule absorbs another state agency with a certified schedule, the records management officer of the absorbing agency may use the certified schedule of the absorbed agency as the basis for disposition of the records of the absorbed agency until the records retention schedule of the absorbing agency is recertified in accordance with this section.

(d) If a state agency with a certified schedule administers another state agency with a certified schedule, the records management officer of the administering agency may use the certified schedule of the administratively attached agency as the basis for lawful disposition of the records of the administratively attached agency until the records retention schedule of the administering agency is recertified in accordance with this section.

(e) A records retention schedule due for recertification under this section must be submitted to the state records administrator no later than one year from the end of the month in which the schedule was certified or last recertified (five years if the state agency is due for quinquennial recertification).

(f) At the discretion of the state records administrator and on petition from the records management officer of a state agency that it will be impossible to comply fully with the requirements of subsection (e) of this section, the state records administrator may extend the deadline for submission of the records retention schedule for up to 3 months from the end of the month the recertification of the schedule was due. One or more additional extensions may be granted, but in no case may the first extension and any additional extensions be for a combined period of more than one year from the end of the month the recertification was due.

**Source Note:** The provisions of this Section 6.3 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective May 12, 2004, 29 TexReg 4468; amended to be effective June 1, 2005, 30 TexReg 1766; amended to be effective September 2, 2014, 39 TexReg 6432

### **Section 6.4. Submission of Amendments to Records Retention Schedule**

During a certification period the records management officer must keep the agency's retention schedule current by submitting amendments to the schedule to:

- (1) add a records series;
- (2) propose an amended period of time a records series will be retained; and
- (3) indicate changes to information concerning a records series required under subsection (a) of §6.5 (relating to Certification of Records Retention Schedules and Amendments).

**Source Note:** The provisions of this § 6.4 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective June 1, 2005, 30 TexReg 1766; amended to be effective September 3, 2014, 39 Tex Reg 6432

### **Section 6.5. Certification of Records Retention Schedules and Amendments**

(a) To be a candidate for certification, a records retention schedule must:

- (1) list all records series maintained by the state agency, regardless of medium;
- (2) indicate whether the records are archival state records or state records that must be reviewed by the state archivist for potential archival value prior to their destruction;
- (3) ensure that state records maintained by the state agency listed in the Texas State Records Retention Schedule or Texas State University Records Retention Schedule are retained for the minimum periods prescribed in the schedules;
- (4) ensure that state records not listed in the Texas State Records Retention Schedule are kept for a length of time sufficient to meet administrative, legal, fiscal, and archival requirements; and
- (5) be submitted in a manner and form prescribed by the state records administrator.

(b) To be a candidate for certification, an amendment to a records retention schedule must meet the criteria in paragraphs (2)-(5) of subsection (a) of this section.

(c) To be certified, a records retention schedule or an amendment to the schedule must be approved by the director and librarian and may also require the approval of the state auditor.

**Source Note:** The provisions of this § 6.5 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective June 1, 2005, 30 TexReg 1766

### **Section 6.6. Decertification**

(a) If a state agency fails to submit a records retention schedule to the state records administrator for recertification by a required deadline or fails to request an extension, the certification of the currently approved schedule and any approved amendments to the schedule expires one year from the end of the month in which the schedule was initially certified or last recertified (or five if the state agency is due for quinquennial recertification).

(b) If a state agency refuses to permit the inspection of a state records series by the state archivist or fails to respond to questions from the state archivist concerning the content, use, or other aspects of a state records series in order for the state archivist to determine if the series contains archival state records in accordance with Government Code, §441.186, the director and librarian may order the decertification of its approved records retention schedule, with decertification effective 30 days from the date of the order.

(c) If a state agency fails to cooperate fully and in a timely manner with the commission, the director and librarian, or any other authorized designee of the director and librarian in fulfilling their duties in accordance with Government Code §441.183, the director and librarian may order the decertification of its approved records retention schedule, with decertification effective 30 days from the date of the order.

(d) If its records retention schedule is decertified according to this section, a state agency is no longer authorized to destroy records based on the schedule and must submit requests for the destruction of its records in accordance with §6.7 of this title (relating to Destruction of State Records).

**Source Note:** The provisions of this § 6.6 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective June 1, 2005, 30 TexReg 1766; amended to be effective September 3, 2014, 39 Tex Reg 6432

### **Section 6.7. Destruction of State Records**

(a) Without a certified records retention schedule, a state agency must request authorization from the director and librarian for the destruction of any state record.

(b) A state agency with a certified records retention schedule must request authorization from the director and librarian for the destruction of any state record that does not appear on the certified schedule or a certified amendment to the schedule.

(c) Requests for authorization for the destruction of state records shall be in a form and manner prescribed by the state records administrator.

**Source Note:** The provisions of this § 6.7 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective June 1, 2005, 30 TexReg 1766

### **Section 6.8. Implementation of Certified Records Retention Schedules**

(a) A state agency must establish policies and procedures to ensure state records are maintained until the expiration of the retention periods on its records retention schedule.

(b) Final disposition of state records must ensure that:

- (1) archival state records scheduled to be preserved by the commission are transferred to the commission on paper, on microform that meets the specifications in the then most current version of *American National Standard for Imaging Materials—Processed Silver-Gelatin Type Black-and-White Film—Specifications for Stability* (ANSI/NAPM IT9.1), in electronic format that meets the requirements of the state archives, or in another medium with prior approval of the state archivist;

- (2) records scheduled for destruction are destroyed in a manner that ensures protection for any sensitive or confidential information; and
- (3) the final disposition of records is documented by the state agency.

**Source Note:** The provisions of this § 6.8 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727

### **Section 6.9. Notification by State Records Administrator**

Within 30 days of the effective date of this section, the state records administrator shall furnish a written notice to each state agency of its status with regard to the submission requirements of §6.2 of this title (relating to Submission of Records Retention Schedules for Certification) and §6.3 of this title (relating to Submission of Records Retention Schedules for Recertification).

**Source Note:** The provisions of this Section 6.9 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective September 2, 1999, 24 TexReg 6727; amended to be effective June 1, 2005, 30 TexReg 1766

### **Section 6.10. Texas State Records Retention Schedule**

(a) A record listed in the Texas State Records Retention Schedule (5th Edition) must be retained for the minimum retention period indicated by any state agency that maintains a record of the type described.

(b) A record listed in the University Records Retention Schedule must be retained for the minimum retention period indicated by any university or institution of higher education.

**Source Note:** The provisions of this Section 6.10 adopted to be effective October 24, 1994, 19 TexReg 8108; amended to be effective January 1, 1998, 22 TexReg 11348; amended to be effective June 1, 2005, 30 TexReg 1766; amended to be effective September 1, 2007, 32 TexReg 4384; amended to be effective July 4, 2012, 37 TexReg 4890